

REMARKS

Claims 1, 4-9, 12-13, 15, 18-23, 26, and 34-35 are pending in the application.

Claims 1, 4-13, 15, 18-16, 30, 31 and 33 stand rejected.

Claims 1, 12, and 15 have been amended. Support for the amendments can be found in at least paragraphs [0015] and [0020]-[0021] of the present Specification. Applicants thank the Examiner for extending the courtesy of a telephonic interview, which was held on August 4, 2009.

Claims 10-11, 24-25, 30-31, and 33 have been currently cancelled.

Claims 34-35 have been added

*Rejection of Claims Under 35 U.S.C. § 102*

Claims 1, 9, 15, 23, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Eshel et al., U.S. Publication No. 2003/0158862 (Eshel). While not conceding that the cited reference qualifies as prior art, but instead to expedite prosecution, Applicants have chosen respectfully disagree and traverse the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that the cited reference, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. Applicants have cancelled Claim 33, rendering the rejection of Claim 33 moot.

Applicants respectfully disagree with the rejection of Claims 1, 9, 15, and 23. For example, nothing in the cited passages of Eshel discloses “modifying data of the second data volume while the second data volume is being refreshed to the data contents of the first data volume that existed at time T,” as recited in the amended independent claims. Thus, Eshel fails to disclose (or render obvious) the limitations of the independent claims. In light of the

foregoing, Applicants respectfully submit that Claims 1, 15, and 34, and all claims dependent therefrom are patentable over Eshel. Applicants respectfully request that the rejection be withdrawn.

*Rejection of Claims Under 35 U.S.C. § 103*

Claims 4-5, 8, 10-12, 18-19, 22, and 24-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Eshel et al., U.S. Publication No. 2003/0158862 (Eshel) as applied to Claims 1, 9, 15, 23, and 33 above, and in view of Veritas (Article entitled “Veritas Flashsnap Point-In-Time Copy Solutions,” dated 6/24/2002). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicants have chosen to respectfully disagree and traverse the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that the cited references, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. Applicants have cancelled Claims 10, 11, and 24-25, rendering the rejections to those claims moot.

Veritas is not cited as disclosing, teaching, or suggesting any of the elements of the independent claims. Thus, Claims 4-5, 8, 12, 18-19, and 22 are patentable over Eshel and Veritas, taken alone or in any permissible combination, at least due to their dependency on the independent claims. Applicants respectfully request that the rejection be withdrawn.

Claims 6-7, 13, 20-21 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eshel et al., U.S. Publication No. 2003/0158862 (Eshel) as applied to Claims 1, 9, 15, 23, and 33 above, and in view of Veritas (Article entitled “Veritas Flashsnap Point-In-Time Copy Solutions,” dated 6/24/2002) as applied to claims 4-5, 8, 10-12, 18-19, 22, and 24-25 and further

in view of DeKoning, U.S. Patent No. 6,691,245 (DeKoning). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicants have chosen to respectfully disagree and traverse the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that the cited references, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. DeKoning is not cited as disclosing, teaching, or suggesting any of the limitations of the independent claims. Thus, Claims 6-7, 13, 20-21, and 26 are patentable over Eshel, Veritas, and DeKoning, taken alone or in any permissible combination, at least due to their dependency on the independent claims. Applicants respectfully request that the rejection be withdrawn.

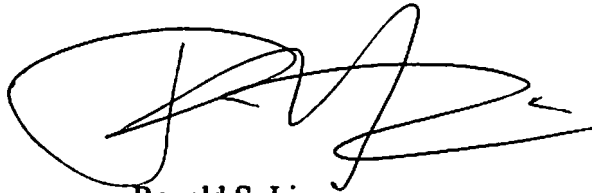
Claims 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eshel et al., U.S. Publication No. 2003/0158862 (Eshel) as applied to Claims 1, 9, 15, 23, and 33 above, and in view of Veritas (Article entitled "Veritas Flashsnap Point-In-Time Copy Solutions," dated 6/24/2002) as applied to Claims 4-5, 8, 10-12, 18-19, 22, and 24-25 and further in view of Rand, U.S. Publication No. 2005/0108302 (Rand). Applicants have cancelled Claims 30-31, thus rendering the rejection moot. Therefore, Applicants respectfully request that the rejection be withdrawn.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to Deposit Account 502306.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'R. Liu', written over a large, loopy circular flourish.

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